

106TH CONGRESS  
2D SESSION

# S. 3140

To transfer administrative jurisdiction over land of the Tennessee Valley Authority within the Daniel Boone National Forest to the Secretary of Agriculture and compensate the Authority for the transfer.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2000

Mr. McCONNELL (for himself and Mr. BUNNING) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To transfer administrative jurisdiction over land of the Tennessee Valley Authority within the Daniel Boone National Forest to the Secretary of Agriculture and compensate the Authority for the transfer.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Kentucky National  
5   Forest Land Transfer Act of 2000”.

### 6   **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds that—

1           (1) the United States owns over 40,000 acres  
2 of land and mineral rights administered by the Ten-  
3 nessee Valley Authority within the Daniel Boone Na-  
4 tional Forest in the State of Kentucky;

5           (2) the land and mineral rights were acquired  
6 by the Tennessee Valley Authority for purposes of  
7 power production using funds derived from rate-  
8 payers;

9           (3) the management of the land and mineral  
10 rights should be carried out in accordance with the  
11 laws governing the management of national forests;  
12 and

13           (4) the Tennessee Valley Authority, on behalf of  
14 the ratepayers of the Authority, should be reason-  
15 ably compensated for the land and mineral rights of  
16 the Authority transferred within the Daniel Boone  
17 National Forest.

18       (b) PURPOSES.—The purposes of this Act are—

19           (1) to transfer administrative jurisdiction over  
20 land of the Tennessee Valley Authority within the  
21 Daniel Boone National Forest to the Secretary of  
22 Agriculture; and

23           (2) to compensate the Tennessee Valley Author-  
24 ity for the reasonable value of the transfer of juris-  
25 diction.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COVERED LAND.—

4 (A) IN GENERAL.—The term “covered  
5 land” means all land and interests in land  
6 owned or managed by the Tennessee Valley Au-  
7 thority within the boundaries of the Daniel  
8 Boone National Forest in the State of Ken-  
9 tucky that are transferred under this Act, in-  
10 cluding surface and subsurface estates.

11 (B) EXCLUSIONS.—The term “covered  
12 land” does not include any land or interest in  
13 land owned or managed by the Tennessee Val-  
14 ley Authority for the transmission of water, gas,  
15 or power, including power line easements and  
16 associated facilities.

17 (2) SECRETARY.—The term “Secretary” means  
18 the Secretary of Agriculture.

19 **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION**  
20 **OVER COVERED LAND.**

21 (a) IN GENERAL.—All covered land is transferred to  
22 the administrative jurisdiction of the Secretary to be man-  
23 aged in accordance with the laws (including regulations)  
24 pertaining to the National Forest System.

25 (b) AUTHORITY OF SECRETARY OF INTERIOR OVER  
26 MINERAL RESOURCES.—The transfer of the covered land

1 shall be subject to the authority of the Secretary of the  
 2 Interior with respect to mineral resources underlying Na-  
 3 tional Forest System land, including laws pertaining to  
 4 mineral leasing and the Surface Mining Control and Rec-  
 5 lamation Act of 1977 (30 U.S.C. 1201 et seq.).

6 (c) SURFACE MINING.—No surface mining shall be  
 7 permitted with respect to any covered land except as pro-  
 8 vided under section 522(e)(2) of the Surface Mining Con-  
 9 trol and Reclamation Act of 1977 (30 U.S.C. 1272(e)(2)).

#### 10 **SEC. 5. MONETARY CREDITS.**

11 (a) IN GENERAL.—In consideration for the transfer  
 12 provided under section 4, the Secretary of the Interior  
 13 shall provide to the Tennessee Valley Authority monetary  
 14 credits with a value of \$4,000,000 that may be used for  
 15 the payment of—

16 (1) not more than 50 percent of the bonus or  
 17 other payments made by successful bidders in any  
 18 sales of mineral, oil, gas, or geothermal leases in the  
 19 contiguous 48 States under—

20 (A) the Mineral Leasing Act (30 U.S.C.  
 21 181 et seq.);

22 (B) the Outer Continental Shelf Lands Act  
 23 (43 U.S.C. 1331 et seq.); or

24 (C) the Geothermal Steam Act of 1970 (30  
 25 U.S.C. 1001 et seq.);

1           (2) not more than 10 percent of the bonus or  
2           other payments made by successful bidders in any  
3           sales of mineral, oil, gas, or geothermal leases in the  
4           State of Alaska under the laws referred to in para-  
5           graph (1);

6           (3) not more than 50 percent of any royalty,  
7           rental, or advance royalty payment made to the  
8           United States to maintain any mineral, oil, gas, or  
9           geothermal lease in the contiguous 48 States issued  
10          under the laws referred to in paragraph (1); or

11          (4) not more than 10 percent of any royalty,  
12          rental, or advance royalty payment made to the  
13          United States to maintain any mineral, oil, gas, or  
14          geothermal lease in the State of Alaska issued under  
15          the laws referred to in paragraph (1).

16          (b) VALUE OF CREDITS.—The total amount of cred-  
17          its provided under subsection (a) shall be considered equal  
18          to the fair market value of the covered land.

19          (c) ACCEPTANCE OF CREDITS.—

20                (1) IN GENERAL.—The Secretary of the Inte-  
21                rior shall accept credits provided under subsection  
22                (a) in the same manner as cash for the payments  
23                described under subsection (a).

24                (2) USE OF CREDITS.—The use of the credits  
25                shall be subject to the laws (including regulations)

1 governing such payments, to the extent the laws are  
2 consistent with this section.

3 (d) TREATMENT OF CREDITS FOR DISTRIBUTION TO  
4 STATES.—All credits accepted by the Secretary of the In-  
5 terior under subsection (c) for the payments described in  
6 subsection (a) shall be considered to be money received  
7 for the purpose of section 35 of the Mineral Leasing Act  
8 (30 U.S.C. 191) and section 20 of the Geothermal Steam  
9 Act of 1970 (30 U.S.C. 1019).

10 (e) EXCHANGE ACCOUNT.—

11 (1) ESTABLISHMENT.—Notwithstanding any  
12 other provision of law, not later than 60 days after  
13 the date of enactment of this Act, the Secretary of  
14 the Interior shall establish an exchange account for  
15 the Tennessee Valley Authority for the monetary  
16 credits provided under subsection (a).

17 (2) ADMINISTRATION.—The account shall—

18 (A) be established with the Minerals Man-  
19 agement Service of the Department of the Inte-  
20 rior; and

21 (B) have an initial balance of credits equal  
22 to \$4,000,000.

23 (3) USE OF CREDITS.—

1 (A) IN GENERAL.—The credits shall be  
 2 available to the Tennessee Valley Authority for  
 3 the purposes described in subsection (a).

4 (B) ADJUSTMENT OF BALANCE.—The Sec-  
 5 retary of the Interior shall adjust the balance of  
 6 credits in the account to reflect credits accepted  
 7 by the Secretary of the Interior under sub-  
 8 section (c).

9 (f) TRANSFER OR SALE OF CREDITS.—

10 (1) IN GENERAL.—The Tennessee Valley Au-  
 11 thority may transfer or sell any credits in the ac-  
 12 count of the Authority to another person or entity.

13 (2) USE OF TRANSFERRED CREDITS.—Credits  
 14 transferred or sold under paragraph (1) may be used  
 15 in accordance with this subsection only by a person  
 16 or entity that is qualified to bid on, or that holds,  
 17 a mineral, oil, or gas lease under—

18 (A) the Mineral Leasing Act (30 U.S.C.  
 19 181 et seq.);

20 (B) the Outer Continental Shelf Lands Act  
 21 (43 U.S.C. 1331 et seq.); or

22 (C) the Geothermal Steam Act of 1970 (30  
 23 U.S.C. 1001 et seq.).

24 (3) NOTIFICATION.—

1 (A) IN GENERAL.—Not later than 30 days  
 2 after the transfer or sale of any credits, the  
 3 Tennessee Valley Authority shall notify the Sec-  
 4 retary of the Interior of the transfer or sale.

5 (B) VALIDITY OF TRANSFER OR SALE.—  
 6 The transfer or sale of any credit shall not be  
 7 valid until the Secretary of the Interior has re-  
 8 ceived the notification required under subpara-  
 9 graph (A).

10 (4) TIME LIMIT ON USE OF CREDITS.—

11 (A) IN GENERAL.—On the date that is 5  
 12 years after the date on which an account is es-  
 13 tablished for the Tennessee Valley Authority  
 14 under subsection (e), the Secretary of the Inte-  
 15 rior shall terminate the account.

16 (B) UNUSED CREDITS.—Any credits that  
 17 originated in the terminated account and have  
 18 not been used as of the termination date, in-  
 19 cluding any credits transferred or sold under  
 20 this subsection, shall expire.

21 **SEC. 6. EXISTING AUTHORIZATIONS.**

22 (a) IN GENERAL.—Nothing in this Act affects any  
 23 valid existing rights under any lease, permit, or other au-  
 24 thorization by the Tennessee Valley Authority on covered  
 25 land in effect before the date of enactment of this Act.



1 (b) RENEWAL.—Renewal of any existing lease, per-  
 2 mit, or other authorization on covered land shall be at the  
 3 discretion of the Secretary on terms and conditions deter-  
 4 mined by the Secretary.

5 **SEC. 7. COMPLIANCE WITH ENVIRONMENTAL LAWS.**

6 (a) DEFINITIONS.—In this section:

7 (1) ENVIRONMENTAL LAW.—

8 (A) IN GENERAL.—The term “environ-  
 9 mental law” means all applicable Federal,  
 10 State, and local laws (including regulations)  
 11 and requirements related to protection of  
 12 human health, natural or cultural resources, or  
 13 the environment.

14 (B) INCLUSIONS.—The term “environ-  
 15 mental law” includes—

16 (i) the Comprehensive Environmental  
 17 Response, Compensation, and Liability Act  
 18 of 1980 (42 U.S.C. 9601 et seq.);

19 (ii) the Solid Waste Disposal Act (42  
 20 U.S.C. 6901 et seq.);

21 (iii) the Federal Water Pollution Con-  
 22 trol Act (33 U.S.C. 1251 et seq.);

23 (iv) the Clean Air Act (42 U.S.C.  
 24 7401 et seq.);

(v) the Federal Insecticide, Fungicide,  
and Rodenticide Act (7 U.S.C. 136 et  
seq.);

(vi) the Toxic Substances Control Act  
(15 U.S.C. 2601 et seq.);

(vii) the Safe Drinking Water Act (42  
U.S.C. 300f et seq.);

(viii) the National Environmental Pol-  
icy Act of 1969 (42 U.S.C. 4321 et seq.);

and

(ix) the Endangered Species Act of  
1973 (16 U.S.C. 1531 et seq.).

(2) HAZARDOUS SUBSTANCE, POLLUTANT OR  
CONTAMINANT, RELEASE, AND RESPONSE ACTION.—

The terms “hazardous substance”, “pollutant or  
contaminant”, “release”, and “response action”  
have the meanings given the terms in section 101  
and other provisions of the Comprehensive Environ-  
mental Response, Compensation, and Liability Act  
of 1980 (42 U.S.C. 9601 et seq.).

(b) DOCUMENTATION OF EXISTING CONDITIONS.—

(1) IN GENERAL.—Not later than 60 days after  
the date of enactment of this Act, the Tennessee  
Valley Authority shall provide the Secretary all doc-  
umentation and information that exists on the envi-

1       ronmental condition of the land and waters com-  
2       prising the covered land.

3           (2) ADDITIONAL DOCUMENTATION.—The Ten-  
4       nessee Valley Authority shall provide the Secretary  
5       with any additional documentation and information  
6       regarding the environmental condition of the covered  
7       land as such documentation and information be-  
8       comes available.

9       (c) ACTION REQUIRED.—

10           (1) ASSESSMENT.—Not later than 120 days  
11       after the date of enactment of this Act, the Ten-  
12       nessee Valley Authority shall provide to the Sec-  
13       retary an assessment indicating what action, if any,  
14       is required under any environmental law on covered  
15       land.

16           (2) MEMORANDUM OF UNDERSTANDING.—If  
17       the assessment concludes that action is required  
18       under any environmental law with respect to any  
19       portion of the covered land, the Secretary and the  
20       Tennessee Valley Authority shall enter into a memo-  
21       randum of understanding that—

22           (A) provides for the performance by the  
23       Tennessee Valley Authority of the required ac-  
24       tions identified in the assessment; and

1 (B) includes a schedule providing for the  
2 prompt completion of the required actions to  
3 the satisfaction of the Secretary.

4 (d) DOCUMENTATION DEMONSTRATING ACTION.—  
5 The Tennessee Valley Authority shall provide the Sec-  
6 retary with documentation demonstrating that all actions  
7 required under any environmental law have been taken,  
8 including all response actions that are necessary to protect  
9 human health and the environment with respect to any  
10 hazardous substance, pollutant or contaminant, hazardous  
11 waste, hazardous material, or petroleum product or deriv-  
12 ative of a petroleum product on covered land.

13 (e) CONTINUATION OF RESPONSIBILITIES AND LI-  
14 ABILITIES.—

15 (1) IN GENERAL.—The transfer of covered land  
16 under this Act, and the requirements of this section,  
17 shall not affect the responsibilities and liabilities of  
18 the Tennessee Valley Authority under any environ-  
19 mental law.

20 (2) ACCESS.—The Tennessee Valley Authority  
21 shall have access to the property that may be rea-  
22 sonably required to carry out a responsibility or sat-  
23 isfy a liability referred to in paragraph (1).

24 (3) ADDITIONAL TERMS AND CONDITIONS.—  
25 The Secretary may require such additional terms

1 and conditions in connection with the transfer of  
2 covered land under this Act as the Secretary con-  
3 siders to be appropriate to protect the interest of the  
4 United States concerning the continuation of any re-  
5 sponsibilities and liabilities under any environmental  
6 law.

7 (4) NO EFFECT ON RESPONSIBILITIES OR LI-  
8 ABILITIES.—Nothing in this Act affects, directly or  
9 indirectly, the responsibilities or liabilities under any  
10 environmental law of any person with respect to the  
11 Secretary.

12 (f) OTHER FEDERAL AGENCIES.—Subject to the  
13 other provisions of this section, a Federal agency that car-  
14 ried or carries out operations on covered land resulting  
15 in the release or threatened release of a hazardous sub-  
16 stance, pollutant or contaminant, hazardous waste, haz-  
17 ardous material, or petroleum product or derivative of a  
18 petroleum product for which that agency would be liable  
19 under any environmental law shall pay—

20 (1) the costs of related response actions; and

21 (2) the costs of related actions to remediate pe-  
22 troleum products or their derivatives.

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